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[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/163741

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**PRELIMINARY RECITALS**

Pursuant to a petition filed February 03, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on February 24, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner's FoodShare benefits have been correctly calculated.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Pang Thao Xiong  
Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner filed this appeal to contest the reduction in the amount of his FoodShare benefits effective February 1, 2015. His FoodShare allotment decreased from \$97.00 to \$16.00.
3. Petitioner completed a FoodShare case review in September 2013. In that review Petitioner indicated he does not have a utility expense other than a phone expense and reported rent of

\$233.00. Despite this his FoodShare allotment calculation continued to include the heating utility standard deduction of \$446.00. His FoodShare allotment was determined to be \$102.00.

4. Petitioner's FoodShare allotment was reduced from \$102.00 to \$97.00 in January 2015 due to a slight increase in his Social Security benefit.
5. Subsequently, Petitioner's Medicaid case was subject to review and in that process the agency realized that Petitioner did not have a utility expense other than his telephone. It redetermined his FoodShare allotment excluding the \$446.00 heating standard and that reduced his FoodShare allotment to \$16.00 as of February 1, 2015.
6. Petitioner's FoodShare household consists of one person.
7. The agency determined that Petitioner's gross household income to be \$823.00 as of January 1, 2015
8. The FoodShare allotment calculation formula effective February 1, 2015 for Petitioner included the standard deduction of \$155.00. This brings Petitioner's adjust income to \$668.00. Half of this is \$334.00. As Petitioner pays rent of \$233.00 and has only the standard phone allowance of \$30, his total shelter expenses are \$263.00 so does not have a shelter deduction.

### DISCUSSION

To receive FoodShare benefits a household must have income below gross and net income limits though the gross income test does not apply where a household has an elderly blind or disabled member. *7 Code of Federal Regulations (CFR), §273.9(b); FoodShare Wisconsin Handbook (FSH), § 1.1.4.* The agency must budget all income of the FS household, including all earned and unearned income. *7 CFR § 273.9(b); FoodShare Wisconsin Handbook (FSH), § 4.3.1.* The allotment calculation is based on prospectively budgeted monthly income using estimated amounts. *FSH, §4.1.1.*

The gross income limit for a household of one is \$1946. *FSH, §8.1.1.1.* Petitioner's gross income is less than this.

If a household passes the gross income test, the following deductions are applied (*FSH, at § 4.6*):

- (1) a standard deduction - which currently is \$155 per month for a household of 1-3 persons, *7 CFR § 273.9(d)(1)*;
- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;
- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;
- (4) dependent care deduction for child care expenses, *7 CFR § 273.9(d)(4)*; and
- (5) shelter and utility expenses deduction – the utility expense requires that a household have an actual utility obligation unless a household has received energy assistance in the prior 12 months and then deduction is equal to the excess expense above 50% of net income remaining after other deductions. *7 CFR § 273.9(d)(5).* The standard allowance for a phone expense is \$30.00. *FSH, §8.1.3.* There is a cap of \$478.00 on the shelter cost deduction unless a household has an elderly [60 or older], blind or disabled member. *FSH, §§ 4.6.7.3 and 8.1.3.*

Petitioner did not note any errors in the calculations described above. Rather, he sought an explanation of why his FoodShare have been reduced by so much. He and his social worker, who came with him to the hearing, expressed the hardship the loss of most of the FoodShare allotment has caused Petitioner and others living on a fixed income. Neither the Division of Hearings and Appeals nor the State nor the economic support agency can change the allotment calculation formula established by Federal law. In reviewing the calculation of Petitioner's FoodShare allotment I do not find any errors in the final allotment determination. Given Petitioner's income and deductions, the correct monthly FoodShare allotment is \$16.00. *FSH, §8.1.2.*

As a final note, a reported change in income or expenses can affect the FoodShare allotment in the month following the report of the change so if any of Petitioner's financial circumstances change (as an example – medical expenses in excess of \$35.00) he should report the change as soon as possible. *FSH*, §6.1.3.3.

### **CONCLUSIONS OF LAW**

That the available evidence is sufficient to demonstrate that the agency correctly reduced Petitioner's FoodShare effective February 1, 2015.

**THEREFORE, it is**

**ORDERED**

That this appeal is dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

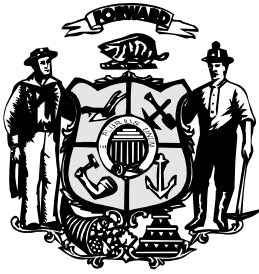
### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 20th day of March, 2015

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David D. Fleming  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on March 20, 2015.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability